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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,738	06/04/2001	Jim Mao	05043P024	5747

7590 02/24/2005
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EXAMINER

NGUYEN, PHUONGCHAU BA

ART UNIT PAPER NUMBER

2665

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/874,738	Applicant(s) MAO ET AL.	
	Examiner Phuongchau Ba Nguyen	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6-4-1</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 39, 46, 49-50, 52, 61 and 70 are objected to because of the following informalities:

-Regarding claim 49, line 1: "37" should be changed to ---47---.

-Regarding claim 50, line 4: ---a--- should be inserted before the phrase
"second egress signal".

-Regarding claim 61, line 9: ---first--- should be inserted before the word "logical".

-Regarding claims 39, 46, 52, 61 and 70:

the abbreviation of a UPSR or/and BLSR should be spelled out as
a Unidirectional Path Switched Ring (UPSR) or/and a Bi-directional
Line Switched Ring (BLSR).

Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 31-75 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,608,836 to Mao in view of U.S. Patent No. 5,815,489 to Takatori. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

(a) The application claim 31 merely narrows the scope of the patented claim 1 to Mao by adding "*on the ring*" (line 9 of claim 31) and "*said ring being a Unidirectional Path Switched Ring (UPSR) or a Bi-directional Line Switched Ring (BLSR)*" (lines 12-13 of claim 31).

(b) The application claim 52 merely narrows the scope of the patented claim 22 to Mao by adding "*for connecting to a ring*" (lines 1-2 of claim 52), "*on the ring*" (line 9 of claim 52) and "*said ring selected from the group of consisting of: 1) UPSR ring; 2) BLSR ring*" (lines 12-14 of claim 52).

(c) The application claim 39 merely narrows the scope of the patented claim 9 to Mao by adding "*on a UPSR or BLSR ring*" (lines 2-3 of claim 39). Likewise, the application claims 46 and 70 merely narrow the scope of the patented claims 16 and 40, respectively.

(d) The application claim 61 merely narrow the scope of the patented claim 31 to Mao by adding "*said first outbound networking line part of a UPSR or BLRS ring*" (lines 6-7 of claim 61).

(e) The application claims 32-38, 40-45, 47-51, 53-60, 62-69, and 71-75 are similar to the patented claims 2-8, 10-15, 17-21, 23-30, 32-39, and 41-45 to Mao, respectively.

-Regarding the application claim 31, Mao discloses all the claimed limitations except (a) "*on the ring*" (line 9 of claim 31) and "*said ring being a Unidirectional Path Switched Ring (UPSR) or a Bi-directional Line Switched Ring (BLSR)*" (lines 12-13 of claim 31)

Takatori discloses Self-Healing Ring Switch and Method of Controlling The Same. The system employs ring-switching modes of 2-Fiber BLSR (*Bi-directional Line Switched Ring*), 4-Fiber BLSR (*Bi-directional Line Switched Ring*) and UPSR (*Unidirectional Path Switched Ring*) to heal a broken link between nodes or a deteriorated in quality of signals between nodes on a ring switching, see column 9, lines 14-18; column 1, lines 13-column 2, line 37; column 3, lines 8-38; column 5, line 9-column 8, line 3 (corresponding to (a)).

Mao and Takatori are analogous art because they are from similar problem solving area, to heal a broken link between nodes or a deteriorated in quality of signals between nodes on ring switching.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the Unidirectional Path Switched Ring (UPSR) or the Bi-directional Line Switched Ring (BLSR) modes on the ring switch of Takatori with Mao.

The suggestion/motivation for doing so would have been to provide a mechanism for selecting an output high-way or a working line at all times instead of a ring protection line in order to heal the failure on the ring.

Therefore, it would have been obvious to combine Takatori with Mao to obtain the invention specified in the application claim 31.

-Regarding the application claim 52, Mao discloses all the claimed limitations except (b) "*for connecting to a ring*" (lines 1-2 of claim 52), "*on the ring*" (line 9 of claim 52) and "*said ring selected from the group of consisting of: 1) UPSR ring; 2) BLSR ring*" (lines 12-14 of claim 52).

Takatori discloses Self-Healing Ring Switch and Method of Controlling The Same. The system employs ring-switching modes of 2-Fiber BLSR (*Bi-directional Line Switched Ring*), 4-Fiber BLSR (*Bi-directional Line Switched Ring*) and UPSR (*Unidirectional Path Switched Ring*) to heal a broken link between nodes or a deteriorated in quality of signals between nodes on a ring switching, see column 9, lines 14-18; column 1, lines 13-column 2, line 37; column 3, lines 8-38; column 5, line 9-column 8, line 3 (corresponding to (b)).

Mao and Takatori are analogous art because they are from similar problem solving area, to heal a broken link between nodes or a deteriorated in quality of signals between nodes on ring switching.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the Unidirectional Path Switched Ring (UPSR) or the Bi-directional Line Switched Ring (BLSR) modes on the ring switch of Takatori with Mao.

The suggestion/motivation for doing so would have been to provide a mechanism for selecting an output high-way or a working line at all times instead of a ring protection line in order to heal the failure on the ring.

Therefore, it would have been obvious to combine Takatori with Mao to obtain the invention specified in the application claim 52.

-Regarding the application claims 39, 46 and 70, Mao discloses all the claimed limitations except (c) "*on a UPSR or BLSR ring*".

Takatori discloses Self-Healing Ring Switch and Method of Controlling The Same. The system employs ring-switching modes of 2-Fiber BLSR (*Bi-directional Line Switched Ring*), 4-Fiber BLSR (*Bi-directional Line Switched Ring*) and UPSR (*Unidirectional Path Switched Ring*) to heal a broken link between nodes or a deteriorated in quality of signals between nodes on a ring switching, see column 9, lines 14-18; column 1, lines 13-column 2, line 37; column 3, lines 8-38; column 5, line 9-column 8, line 3 (corresponding to (c)).

Mao and Takatori are analogous art because they are from similar problem solving area, to heal a broken link between nodes or a deteriorated in quality of signals between nodes on ring switching.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the Unidirectional Path Switched Ring (UPSR) or the Bi-directional Line Switched Ring (BLSR) modes on the ring switch of Takatori with Mao.

The suggestion/motivation for doing so would have been to provide a mechanism for selecting an output high-way or a working line at all times instead of a ring protection line in order to heal the failure on the ring.

Therefore, it would have been obvious to combine Takatori with Mao to obtain the invention specified in the application claims 39, 46 and 70.

-Regarding the application claim 61, Mao discloses all the claimed limitations except (d) "*said first outbound networking line part of a UPSR or BLRS ring*"(lines 6-7 of claim 61).

Takatori discloses Self-Healing Ring Switch and Method of Controlling The Same. The system employs ring-switching modes of 2-Fiber BLSR (*Bi-directional Line Switched Ring*), 4-Fiber BLSR (*Bi-directional Line Switched Ring*) and UPSR (*Unidirectional Path Switched Ring*) to heal a broken link between nodes or a deteriorated in quality of signals between nodes on a ring switching, see column 9, lines 14-18; column 1, lines 13-column 2, line 37; column 3, lines 8-38; column 5, line 9-column 8, line 3 (corresponding to (d)).

Mao and Takatori are analogous art because they are from similar problem solving area, to heal a broken link between nodes or a deteriorated in quality of signals between nodes on ring switching.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the Unidirectional Path Switched Ring (UPSR) or the Bi-directional Line Switched Ring (BLSR) modes on the ring switch of Takatori with Mao.

The suggestion/motivation for doing so would have been to provide a mechanism for selecting an output high-way or a working line at all times instead of a ring protection line in order to heal the failure on the ring.

Therefore, it would have been obvious to combine Takatori with Mao to obtain the invention specified in the application claim 61.

-Regarding the application claims 32-38, 40-45, 47-51, 53-60, 62-69, and 71-75, the application claims 32-38, 40-45, 47-51, 53-60, 62-69, and 71-75 recite the recitations that are found in the patented claims 2-8, 10-15, 17-21, 23-30, 32-39, and 41-45 to Mao, respectively (corresponding to (e)).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 571-272-3148. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 2:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phuongchau Ba Nguyen
Examiner
Art Unit 2665